

Serial No. 10/ 743,164
Amdt. dated October 26, 2005
Reply to Office action of July 28, 2005
and Advisory Action of October 7, 2005

REMARKS/ARGUMENTS

Claims 10-25 remain in the application.

Claims 10, 13-15, 18 and 21 are currently amended.

Claims 26-34 are cancelled.

Claims 35 and 36 are newly presented.

Advisory Action of October 7, 2005

1) The after final amendment was not entered as raising new issues and not reducing the issues to be considered on appeal.

2) Claims 26-34 were found to be directed toward an independent and distinct invention from that of the apparatus claims originally filed. Claims 26-34 are hereby cancelled.

3) Claims 19-20 were amended to substitute "consisting of" in place of "comprising" whereby the claims were made to be of a "closed" type. The examiner believes that claims 10-18 and 21-25 dependent thereon, respectively, are therefore improper.

Claim 10 is amended such that claim 10 and claims 11 and 12 depending therefrom now depend from new claim 36.

Claims 13-15 and 18 are amended to depend from new claim 36.

Claim 21 is amended such that claims 21-25 now depend from new claim 35.

Claims 19 and 20 are now allowable as reciting the transitional phrase "consisting of" and having no claims depending therefrom.

Claims 35 and 36 are newly presented. Claim 35 is substantially identical to earlier presented claim 20, and claim 36 is substantially identical to earlier presented claim 19. New claims 35 and 36 differ from earlier claims 20 and 19 only in substitution of the transitional phrase "consisting essentially of" in place of "consisting of" which limits the scope of the claims to the specified materials or steps "and those that do not materially affect the basic and novel characteristic(s)" of the claimed invention. *In re Herz*, 537 F.2d 549, 551-52, 190 USPQ 461, 463 (CCPA 1976) (emphasis in original), as recited in MPEP §2111.03.

4) The Advisory Action advises that the examiner would reject claims 19 and 20 as being unpatentable over US Patent 6,045,159 to Bellah. The applicant disagrees that Bellah includes the

elongated support bar, means for compacting the support bar, and the elastic retainer with first and second anchors on the support bar.

Rather, Bellah teaches a book holder 10 that comprises, as major components, a backing 12, a spring assembly 14, a cover 16, and a strap 18 for holding a book 20. The backing 12 comprises a “stiff” sheet 22, such as cardboard or the like, which is creased along parallel lines 24 to provide a central spine 26 and a pair of panels 28. The creases 24 allow the panels 28 to pivot along parallel axes between open and closed positions where the panels 28 overlie one another. The spring assembly 14 comprises a plurality of, and preferably three, concave elongate metallic spring members 30 that are connected to the spine 26 by a fastener 32 such as a pop rivet or the like. Column 2, lines 50-65.

“The strap 18 is a sturdy strap of transparent flexible plastic permanently attached at one end 50 to the cover 16 simply by placing it under the stitching 44.” Column 3, lines 40-43.

Thus, Bellah fails to disclose or suggest the “rigid elongated support bar” recited in claim 19. Rather, Bellah must include the spring assembly 14 to support the a “stiff” sheet 22 because is only a “stiff” sheet such as cardboard or the like. Obviously, because it requires the spring assembly 14 for stiffness, the “stiff” sheet 22 cannot provide the “rigid elongated support bar” recited in claim 19.

Additionally, Bellah fails to disclose or suggest the “resilient elastic retainer” for gripping and holding pages of an open book, as recited in claim 19. Rather, Bellah teaches the strap 18 being “flexible plastic” which is not “elastic,” as required by the limitation of claim 19.

Furthermore, the plastic strap 18 of Bellah is not “resilient,” as required by the limitation of claim 19. Rather, the strap 18 of Bellah must be carefully protected to avoid creasing or crimping because it is not “resilient,” as shown by the following excerpt:

An **important** feature of this invention is that the strap 18 wraps around the edges 58 of the cover 16 which have a curved surface of sufficient diameter to prevent early failure of the plastic material from fatigue. The edge 58 of the cover 16 is at least 1/8 inch in diameter and preferably is on the order of 2/10 inch in diameter. This allows the plastic strap 18 to bend over a sufficient radius to

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prevent premature failure of the material due to fatigue. Column 3, lines 55-62
(emphasis added).

Clearly, the strap 18 taught by Bellah cannot anticipate, disclose or suggest the “resilient elastic retainer” for gripping and holding pages of an open book, as recited in claim 19.

Thus, at least because Bellah fails to anticipate, disclose or suggest either the “resilient elastic retainer” for gripping and holding pages of an open book, or the “rigid elongated support bar,” claim 19 is allowable over Bellah.

Claims 20, 34 and 35 differ in scope from allowable claim 19. However, the above arguments directed to claim 19 are sufficiently applicable to claims 20, 34 and 35 as to make repetition unnecessary. Thus, for each of the reasons above, claims 20, 34 and 35 are believed to be allowable over the cited art.

The claims now being in form for allowance, reconsideration and allowance is respectfully requested.

If the Examiner has questions or wishes to discuss any aspect of the case, the Examiner is encouraged to contact the undersigned at the telephone number given below.

Respectfully submitted,

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